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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/027,019	12/20/2001	Bodo Kuhn	3955/59156-101	1141

7590 01/27/2003
HUSCH & EPPENBERGER, LLC
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EXAMINER	
MAMMEN, NATHAN SCOTT	
ART UNIT	PAPER NUMBER
3671	

DATE MAILED: 01/27/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application N .

10/027,019

Applicant(s)

KUHN ET AL.

Examiner

Nathan S Mammen

Art Unit

3671

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 January 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) 11-23 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4, 6 and 10 is/are rejected.
- 7) ☒ Claim(s) 5, 7-9 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1, 2, 10, are rejected under 35 U.S.C. 102(b) as being anticipated by Todd et al. (U.S. Patent 4,056,107).

The Todd '107 patent discloses an agricultural machine having a crop processing working unit (15), a plurality of crop transport units (16) operatively assembled as a straw walker step, a cleaning device having a forced-draught fan (34), and an exhaust fan (41) located after the cleaning device. The transport units (16) are located between the forced-draught fan and the exhaust fan and the forced-draught fan produces an air stream which is directed from the forced-draught fan to the exhaust fan.

Regarding claims 2, 10: The exhaust fan is a crop comminutor as well as a crop distributing device.

3. Claims 1, 2, 10 are rejected under 35 U.S.C. 102(e) as being anticipated by Stukenholtz et al. (U.S. Patent 6,358,141).

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The Stukenholtz '141 patent discloses an agricultural machine having a crop processing working unit (17), a plurality of crop transport units (21) operatively assembled as a straw walker step, a cleaning device (19, 26) having a forced-draught fan (25), and an exhaust fan (22) located after the cleaning device. The transport units (21) are located between the forced-draught fan and the exhaust fan and the forced-draught fan produces an air stream which is directed from the forced-draught fan to the exhaust fan.

Regarding claims 2, 10: The exhaust fan (22) is a crop comminutor as well as a crop distributing device.

4. Claims 1-4, 6, 10 are rejected under 35 U.S.C. 102(b) as being anticipated by Hall (U.S. Patent 5,586,033).

The Hall '033 patent discloses an agricultural machine having a crop processing working unit (32), a plurality of crop transport units (40, 42) operatively assembled as a straw walker step, a cleaning device (48) having a forced-draught fan (50), and an exhaust fan (44) located after the cleaning device. The transport units (40, 42) are located between the forced-draught fan and the exhaust fan and the forced-draught fan produces an air stream which is directed from the forced-draught fan to the exhaust fan.

Regarding claims 2, 10: The exhaust fan (44) is a crop comminutor (the fan will inherently comminute some of the discharged crop) as well as a crop distributing device.

Regarding claims 3, 4, 6: The forced-draught fan and the exhaust fan generate an air stream speed. The air stream speed is adjustable (See Fig. 3 – Fan Speed). The air stream speed is determined as a function of crop throughput or moisture content in the crop (Fig. 4a). The agricultural machine includes an air speed measuring device (see Fig. 3 – Fan Speed – actual).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 3, 4, 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Todd et al. (U.S. Patent 4,056,107) or Stukenholtz et al. (U.S. Patent 6,358,141) in view of Osselaere et al. (U.S. Patent 4,466,230).

The Todd '107 and Stukenholtz '141 patents disclose the claimed invention, as stated in paragraphs 2 and 3 above, respectively, except for the agricultural machines including adjusting and measuring means for the air speed. The Osselaere '230 patent teaches that it is known in the art to provide an agricultural machine with an adjusting (18) and measuring means (15) for controlling the air speed. The air speed is controlled as a function of grain loss (i.e., a type of crop throughput – col. 2, lines 23-32). It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the agricultural machine of the Todd '107 or Stukenholtz '141 patents with the adjusting and measuring means for controlling air speed as taught by the Osselaere '230 patent, in order to provide more efficient crop processing.

Allowable Subject Matter

7. Claims 5, 7-9 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

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Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nathan Mammen whose telephone number is (703) 306-5959. The examiner can normally be reached Monday through Thursday from 6:30 a.m. to 5:00 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas B. Will, can be reached at (703) 308-3870. The fax number for this Group is (703) 305-3579.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 305-1113.


Thomas B. Will
Supervisory Patent Examiner
Group 3600

NSM
1/21/03

Nathan S. Mammen